

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS

Gregory Thomas Staffa,

Complainant,  
vs.

ORDER OF DISMISSAL

Carolyn Sampson,

Respondent.

On August 3, 2006, Gregory Thomas Staffa filed a Complaint with the Office of Administrative Hearings alleging Carolyn Sampson violated Minn. Stat. §§ 211B.04, 211B.06 and 211B.07.

The Chief Administrative Law Judge assigned this matter to the undersigned Administrative Law Judge on August 3, 2006, pursuant to Minn. Stat. § 211B.33. The Respondent was notified of the Complaint by email on August 3, 2006, and a copy of the Complaint and attachments were sent by United States mail on August 4, 2006.

After reviewing the Complaint and attachments, including the two-paged memo from the Complainant that was faxed to the Office of Administrative Hearings on August 4, 2006,<sup>1</sup> the Administrative Law Judge finds that the Complaint does not state prima facie violations of Minn. Stat. §§ 211B.04, 211B.06 or 211B.07.

Based upon the Complaint and the supporting filings and for the reasons set out in the attached Memorandum,

**IT IS ORDERED:**

That the Complaint filed by Gregory Thomas Staffa against Carolyn Sampson is DISMISSED.

Dated: August 4, 2006

/s/ Barbara L. Neilson  
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BARBARA L. NEILSON  
Administrative Law Judge

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<sup>1</sup> A copy of this memo will be enclosed with a copy of this Order in the mailing to the Respondent.

## **NOTICE**

Under Minn. Stat. § 211B.36, subd. 5, this order is the final decision in this matter and a party aggrieved by this decision may seek judicial review as provided in Minn. Stat. § § 14.63 to 14.69.

## **MEMORANDUM**

As of August 3, 2006, the DFL Party Senate District 36<sup>2</sup> campaign website had a “Candidates” page on which it listed the candidates it endorsed for the upcoming elections. The web page stated as follows:

### **Visit our District Candidates’ Web sites to learn more about their campaigns**

Delegates to the Senate District 36 endorsement convention convened on March 25, 2006 to elect local party leaders and endorse candidates for state legislative seats. Mark Solomon and Paul Hardt were unanimously endorsed for House seats 36A and 36B respectively. Carolyn Sampson was endorsed for the Senate seat with 90 percent of the 87 votes cast. Clinton Kennedy received 5 votes and Greg Staffa received 4.

Our candidates can use YOUR help. Money or time<sup>3</sup> donated to the campaigns will be greatly appreciated.

**District 36A State Representative Candidate**  
Mark Solomon

**District 36B State Representative Candidate**  
Paul Hardt

**District 36 Senate Candidate**  
Carolyn Sampson

**Senate Candidates**  
Amy Klobuchar

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<sup>2</sup> According to its website, the DFL Senate District 36 includes voters who live in Lakeville, Farmington, Empire, Vermillion, Marshan, Ravenna, Eureka, Castle Rock, Hampton, New Trier, Douglas, Miesville, Welch, Greenvale, Waterford, Sciota, Randolph, Stanton, Dennison, Warsaw, and “a tiny slice of Northfield.”

<sup>3</sup> Underlining represents links to other websites.

**Congressional District 2 Candidate**  
Colleen Rowley

**Governor Candidate**  
Mike Hatch

**Secretary of State Candidates**  
Mark Ritchie

**State Auditor Candidates**  
Rebecca Otto

The Complainant is a DFL candidate for Senate District 36. His opponent, Carolyn Sampson, received the DFL endorsement. According to the Complaint, Ms. Sampson is also the “webmaster” of the DFL District 36 website. The Complaint maintains that as “webmaster,” Ms. Sampson is responsible for creating and updating the DFL District 36 web pages.

The DFL District 36 web site is “campaign material” in that it is a publication or material disseminated for the purpose of influencing voting at a primary or other election.<sup>4</sup> The Complaint alleges that Ms. Sampson violated Minn. Stat. § 211B.04 by failing to include a disclaimer on the web page identifying herself as the person “running the site.”

On April 26, 2006, the Minnesota Court of Appeals issued its decision in *Riley v. Jankowski*,<sup>5</sup> holding that the disclaimer requirement of Minn. Stat. § 211B.04 violates the First Amendment of the U.S. Constitution by directly regulating the content of pure speech and that there is no way to narrowly construe the statute to avoid the constitutional violation. Because the Minnesota Court of Appeals has determined that Minn. Stat. § 211B.04 is unconstitutional on its face, the Complainant’s allegation that Ms. Sampson violated Minn. Stat. § 211B.04 is dismissed.

The Complainant also alleges that Ms. Sampson, as webmaster, violated Minn. Stat. § 211B.06 by failing to remove the name of Mark Solomon as the candidate for District 36A State Representative. Mr. Solomon was the DFL endorsed candidate for the District 36A House seat. However, Mr. Solomon never filed his candidacy and, according to the Complaint, moved to Kansas City in late June of 2006. The only DFL candidate to have filed for this seat is Mr. Dave Laidig. It is not clear from the Complaint whether Mr. Laidig has since been endorsed by the DFL Party.

The Complaint alleges that by listing Mr. Solomon as the District 36A State Representative Candidate on the website for 47 days after he moved out of

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<sup>4</sup> See Minn. Stat. § 211B.01, subd. 2.

<sup>5</sup> No. A05-1125 (Minn. App. April 26, 2006), *review denied*, (Minn. July 20, 2006).

Minnesota, Ms. Sampson violated the prohibition against false campaign material contained at Minn. Stat. § 211B.06.<sup>6</sup> The Complaint alleges further that by keeping Mr. Solomon's name on the list of candidates, Ms. Sampson used her position as webmaster to coerce persons to donate to the list of candidates.<sup>7</sup> The Complaint suggests that since Mr. Solomon's name was well known, Ms. Sampson deliberately left his name on the list of candidates in order to encourage more donations to her campaign and the campaigns of the other named candidates.<sup>8</sup>

Minn. Stat. § 211B.06 provides in relevant part:

A person is guilty of a gross misdemeanor who intentionally participates in the preparation, dissemination, or broadcast of paid political advertising or campaign material with respect to the personal or political character or acts of a candidate, or with respect to the effect of a ballot question, that is designed or tends to elect, injure, promote, or defeat a candidate for nomination or election to a public office or to promote or defeat a ballot question, that is false, and that the person knows is false or communicates to others with reckless disregard of whether it is false.

The Administrative Law Judge concludes that the Complainant's allegation fails to state a prima facie violation of Minn. Stat. § 211B.06. Mark Solomon was the DFL Senate District 36's endorsed candidate for District 36A State Representative and listing him as such does not constitute false campaign material. The mere fact that the website continued to list Mr. Solomon as the "candidate" after he failed to file for the office, standing alone, is insufficient to establish a prima facie violation of Section 211B.06. The statute prohibits false campaign material that is related to the personal or political character or acts of a candidate and which is designed to promote or defeat a candidate for election. Nothing in the facts alleged by the Complainant supports finding that the failure to remove Mr. Solomon's name from the list of Senate District 36 DFL-endorsed candidates amounts to campaign material relating to the political character or acts of a candidate which is designed to promote or defeat a candidate. The Complainant's opinion that Ms. Sampson deliberately left Mr. Solomon's name on the list in order to draw more campaign contributions for herself and the other candidates listed on the webpage lacks a factual basis and is mere speculation. It appears in any case from a review of the website that contributions are made by clicking on the individual candidate's link and are not pooled for the entire group. Moreover, Ms. Sampson and the DFL Senate District 36 were under no

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<sup>6</sup> As of August 4, 2006, Mr. Solomon's name has been removed from the DFL District 36 web site and Mr. Dave Laidig is now listed as the District 36A State Representative Candidate.

<sup>7</sup> Specifically, the Complaint states: "Carolyn Sampson is using her candidacy and power as webmaster of the district 36 website for coercion by allowing a well known person who NEVER filed be included to seek contributions."

<sup>8</sup> Specifically, the Complaint states: "It is my belief that the reason in which 45 days have passed and no change has been made is removing a popular name and replacing it with an unknown name would hurt [Carolyn Sampson's] campaign fund."

obligation to update the web page and list another person as “their candidate” once Mr. Solomon failed to file. Therefore, because the Complainant has failed to allege a prima facie violation of Minn. Stat. § 211B.06, this allegation is dismissed.

Finally, the Complaint fails to allege a prima facie violation of Minn. Stat. § 211B.07. This section prohibits undue influence on voters and provides as follows:

A person may not directly or indirectly use or threaten force, coercion, violence, restraint, damage, harm, loss, including loss of employment or economic reprisal, undue influence, or temporal or spiritual injury against an individual to compel the individual *to vote for or against a candidate* or ballot question. Abduction, duress, or fraud may not be used to obstruct or prevent the free exercise of the right to vote of a voter at a primary or election, or compel a voter to vote at a primary or election. Violation of this section is a gross misdemeanor. [Emphasis supplied.]

The Complaint alleges that Ms. Sampson used her authority as “webmaster” to coerce people to make contributions to the candidates listed on the web page, which includes her. At most, the facts allege that Ms. Sampson failed to update the website. The statute, however, prohibits the use of coercion or undue influence to compel an individual “to vote for or against a candidate.” The Complainant has failed to allege any facts that would support finding that Ms. Sampson used her influence to coerce individuals to vote in a particular way. The Administrative Law Judge concludes that the Complaint fails to allege a prima facie violation of Minn. Stat. § 211B.07. Therefore, the Complaint in its entirety must be dismissed.

B.L.N.